

ment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.

IN THE MATTER OF
BROWN AUTO STABILIZER CO., ET AL.

ORDER, OPINION, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 8863. Complaint, Sept. 21, 1971—Decision Nov. 3, 1972

Order requiring an Orlando, Florida, retailer and distributor of "Dynamic Absorbers," among other things to cease misrepresenting the qualities and properties of its products; using the word "stabilizer" as part of its corporate or trade name; and misrepresenting the extent, kind, character, or results of any scientific tests performed on any of its products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Brown Auto Stabilizer Co., a corporation, and Charles R. Brown, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Brown Auto Stabilizer Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at 5503 South Orange Blossom Trail, Orlando, Florida.

Respondent Charles R. Brown is an individual and an officer of the corporate respondent. He formulates, directs, and controls the acts and practices of the corporate respondent including those hereinafter set forth. His address is the same as that of the corporate respondent.

Complaint

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PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of Brown "Dynamic Absorbers" to distributors and to the public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents have caused, and now cause, their said "Dynamic Absorbers" to be shipped from their place of business in the State of Florida to purchasers thereof located in various other States of the United States. Respondents, therefore, maintain, and at all times mentioned herein have maintained, a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of the Brown "Dynamic Absorbers," the respondents have made, and are now making, numerous statements and representations in newspaper advertisements, in brochures and pamphlets, and in oral promotional presentations with respect to the performance of the Brown "Dynamic Absorber."

Typical and illustrative of said statements and representations, but not all inclusive thereof, are the following:

The Brown Dynamic Absorber takes over where your shocks leave off. * * * The Brown Absorber dampens the lateral or side sway motion of your car keeping the rear wheels tracking the front to give you utmost control of your car under all driving conditions.

We know and our customers agree that any car equipped with a Brown Dynamic Absorber is a safer car to drive under all conditions than a car not similarly equipped.

* * * the Brown Dynamic Absorber to augment conventional controls on automobiles to give drivers better control of their cars under all driving conditions.

Blow outs can cause serious accidents under the best driving conditions. The Brown Dynamic Absorber could provide the extra margin of safety that could save your life.

You can have a Brown Dynamic Absorber installed in your car to augment the conventional controls and get automatic, mechanical help when you need it to prevent many needless auto accidents from happening.

It helps drivers stop cars faster and straighter.

Does a Brown Auto Stabilizer help on slippery surfaces? Yes. * * *

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning, but not expressly set out herein, and by and through the use of the word "Stabilizer" in their corporate and trade name or to describe or refer to their Dynamic Absorber in any other manner, separately and in connection with the oral statements to prospective purchasers and purchasers, respondents have represented, and are now representing, directly and by implication:

1. That the Brown Dynamic Absorber is an effective safety device.
2. That the Brown Dynamic Absorber is an anti-skid device which

will help prevent skidding, spin-outs, unwanted motion, and accidents.

3. That the Brown Dynamic Absorber will help save lives.

4. That the Brown Dynamic Absorber will keep the rear wheels of an automobile tracking the front wheels, give the driver added control, and help keep a skidding automobile going straight.

5. That the Brown Dynamic Absorber will help control automobiles during panic stops or sudden turns.

6. That the Brown Dynamic Absorber will help control automobiles on wet or sandy road surfaces.

7. That the Brown Dynamic Absorber performance representations have been substantiated by competent scientific tests or by authenticated, controlled and duly recorded tests.

PAR. 6. In truth and in fact:

1. The Brown Dynamic Absorber is not an effective safety device.

2. The Brown Dynamic Absorber is not an anti-skid device which will help prevent skidding, spin-outs, unwanted motion, and accidents.

3. The Brown Dynamic Absorber will not help save lives.

4. The Brown Dynamic Absorber will not keep the rear wheels of an automobile tracking the front wheels, give the driver added control, and help keep a skidding automobile going straight.

5. The Brown Dynamic Absorber will not help control automobiles during panic stops or sudden turns.

6. The Brown Dynamic Absorber will not help control automobiles on wet or sandy road surfaces.

7. The Brown Dynamic Absorber performance representations have not been substantiated by competent scientific tests or by authenticated, controlled and duly recorded tests.

Therefore, the statements and representations set forth in Paragraphs Four and Five hereof were, and are, unfair practices and are false, misleading and deceptive.

PAR. 7. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms, and individuals engaged in the business of selling stabilizer, traction, and other safety devices and equipment.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' product by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors, and constituted, and now constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

Mr. C. Powers Dorsett and *Mr. William E. Mumford* supporting the complaint.

Mr. William L. Eagan, Arnold, Matheny & Eagan, Orlando, Florida for respondents.

INITIAL DECISION BY EDWARD CREEL, HEARING EXAMINER

APRIL 24, 1972

PRELIMINARY STATEMENT

The Federal Trade Commission issued its complaint in this proceeding on September 21, 1971, charging respondents Brown Auto Stabilizer Co., a corporation, and Charles R. Brown, individually and as an officer of the corporation, with violations of Section 5 of the Federal Trade Commission Act. It was alleged that the respondents had represented that a mechanical device when attached to an automobile would make it safer to operate by helping to prevent skidding, spin-outs, unwanted motion, and accidents. It was also alleged that respondents had represented that the performance claimed for the device had been substantiated by competent scientific tests or by authenticated, controlled, and duly recorded tests. It was further alleged that these advertising claims for the product were false and that the performance of the device had not been substantiated by competent scientific tests or by authenticated, controlled, and duly recorded tests.

A prehearing conference was held in advance of the hearings at which a clarification of the pleadings and some admissions of minor allegations were made. It was later agreed between counsel that the only issue to be tried was "whether or not the Brown Dynamic Absorber is effective for its intended purpose." (Tr. 30) ¹ Hearings were held for 3 days in Orlando, Florida. Following the close of the presentation of evidence in support of the complaint, the respondents moved for dismissal of the complaint. Ruling was reserved on this motion until this time and the motion is now denied.

¹ The abbreviations used herein are "Tr." for transcript of prehearing conference and testimony, and "CX" for Commission Exhibit.

This proceeding is before the hearing examiner for final consideration upon the complaint, answer, testimony and other evidence, and proposed findings of fact and conclusions filed by the parties. As stated above, the only contested issue is the effectiveness of respondents' device as claimed in their advertising. Consideration has been given to the proposed findings of fact and briefs, and all proposed findings of fact and conclusions not hereinafter specifically found or concluded are rejected; and the hearing examiner, having considered the entire record herein, makes the following findings of fact and conclusions drawn therefrom and issues the following order:

FINDINGS OF FACT

1. Brown Auto Stabilizer Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida, with its principal office and place of business located at 5503 South Orange Blossom Trail, Orlando, Florida (Tr. 6).

2. Respondent Charles R. Brown is an individual and an officer of the corporate respondent. He formulates, directs, and controls the acts and practices of the corporate respondent including those hereinafter set forth. His address is the same as that of the corporate respondent. (Tr. 6)

3. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale, and distribution of Brown "Dynamic Absorbers" to distributors and to the public (Tr. 32-33, 40).

4. In the course and conduct of their business as aforesaid, respondents have caused and now cause their said "Dynamic Absorbers" to be shipped from their place of business in the State of Florida to purchasers thereof located in various other States of the United States. Respondents, therefore, maintained and at all times mentioned herein have maintained a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act. (Tr. 6-7)

5. In the course and conduct of their aforesaid business and for the purpose of inducing the purchase of the Brown "Dynamic Absorbers," the respondents have made and are now making numerous statements and representations in newspaper advertisements, in brochures and pamphlets, and in oral promotional presentations with respect to the performance of the Brown "Dynamic Absorber" (Tr. 7-8; CXs 7, 8, 9, 14).

Typical and illustrative of said statements and representations, but not all inclusive thereof, are the following:

Initial Decision

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The Brown Dynamic Absorber takes over where your shock absorbers leave off. * * * The Brown Absorber dampens the lateral or side sway motion of your car keeping the rear wheels tracking the front to give you utmost control of your car under all driving conditions.

We know and our customers agree that any car equipped with a Brown Dynamic Absorber is a safer car to drive under all conditions than a car not similarly equipped.

* * * the Brown Dynamic Absorber to augment conventional controls on automobiles to give drivers better control of their cars under all driving conditions.

Blow outs can cause serious accidents under the best driving conditions. The Brown Dynamic Absorber could provide the extra margin of safety that could save your life.

You can have a Brown Dynamic Absorber installed in your car to augment the conventional controls and get automatic, mechanical help when you need it to prevent many needless auto accidents from happening.

Q. What does it do?

A. It helps drivers stop cars faster and straighter.

* * * * *

Q. Does a Brown Auto Stabilizer help on slippery surfaces?

A. Yes, * * *

6. By and through the use of the above-quoted statements and representations, and others of similar import and meaning but not expressly set out herein, and by and through the use of the word "Stabilizer" in their corporate and trade name or to describe or to refer to their Dynamic Absorber, separately and in connection with oral statements to prospective purchasers, and purchasers, respondents have represented and are now representing, directly and by implication:

That the Brown Dynamic Absorber is an effective safety device.

That the Brown Dynamic Absorber is an anti-skid device which will help prevent skidding, spin-outs, unwanted motion, and accidents.

That the Brown Dynamic Absorber will help save lives.

That the Brown Dynamic Absorber will keep the rear wheels of an automobile tracking the front wheels, will give the driver added control, and will help keep a skidding automobile going straight.

That the Brown Dynamic Absorber will help control automobiles during panic stops or sudden turns.

That the Brown Dynamic Absorber will help control automobiles on wet or sandy road surfaces.

That the performance representations for the Brown Dynamic Absorber have been substantiated by competent scientific tests or by authenticated, controlled, and duly recorded tests.

None of the facts found in Findings 1 through 6 above are contested by respondents.

7. In order to support their contention that the device is without merit beyond its value as a deadweight in stabilizing a vehicle, com-

plaint counsel offered testimony and written results of testing of respondents' device by Dr. Andrew A. Frank, a highly qualified engineer and an expert in testing vehicular behavior, who, together with Professor A. H. Easton, another such expert, conducted carefully controlled tests. These tests were made with the device installed in an automobile, and then the same tests were made with the equivalent weight of lead in an affixed box in the same position at the rear of the trunk of the car. The opinion of this expert witness and the results of the tests were to the effect that the device was of no value for the purpose for which it was intended and for which it was advertised. Respondents have contended that because the device used in these tests was first affixed to a plywood board before being bolted to the floor of the trunk, the results were invalid. It was, however, the opinion of this expert witness that the presence of the plywood board had no effect upon the results obtained. (Tr. 49-114, 123-156, 178-220)

8. Respondents offered testimony of another well-qualified engineer to the effect that the theory of the design of the device was based upon a standard, mechanical engineering vibration theory. His explanation of this theory was:

Well, it's not a new idea. It's been, let's say, in the field of mechanical vibrations for some years. The idea is that if there is a—let's say a mass spring system oscillating at a natural frequency, that the amplitude of a vibration can be decreased by tuning a second mass spring system to the vibrating mass, with the idea that the subsystem will oscillate out of phase with the prime system, and in so doing will reduce the vibration effort. (Tr. 158)

It was also his view that the tests which had been performed by the previously mentioned expert who had performed the testing at the request of the Federal Trade Commission did, in fact, show some measurable effectiveness of the device (Tr. 163-64).

9. Respondents also offered testimony of another engineer who had designed the device. He explained the theory of a dynamic absorber as follows:

A dynamic absorber, by definition, is a mass suspended within another mass with the same resident frequency, or the same natural frequency, so that when one mass moves the other one tries to resist it, but it's being excited by the same force, and so, when they each complete its cycle they're at other ends of the stroke, and the other one's trying to come back and this one's trying to go this way. That's the whole purpose of the dynamic absorber, so that one can oppose the other so that the secondary mass can help to dissipate the first one, and that's where the dampening effect is; and that's what it's because of. (Tr. 279)

He also stated that he had conducted some practical tests of the device in automobiles and had observed that it was effective for the purposes

claimed for it, but he did not record any findings or results of such tests. (Tr. 284-89)

10. About one hundred of these units was supplied to the Florida Highway Patrol for use in its vehicles, and evidence was offered by complaint counsel and respondents' counsel that expressed the views of the various patrolmen to the effect that the device was useful; that it was not useful; or that they couldn't be sure what the effect of the device was. It is concluded that all of the evidence from the users of the device is inconclusive and cannot be relied upon.

11. Although there is a dispute regarding the theory of the manner in which the device may, or could, operate, it is unnecessary to decide whether this is a valid mechanical theory because it is found that the tests conducted by the expert whose testimony was offered by complaint counsel show that the device did not produce the results which were claimed for it. The facts must be found on the basis of what appears to be the most carefully controlled and competent tests shown to have been conducted, and here it is believed they were the tests conducted by Dr. Frank and Professor Easton (Tr. 51, *et seq.*). It is found that the device, which weighs about 53 pounds, has no value in stabilizing a vehicle beyond its value as an added weight. It is therefore found that, in truth and in fact,

The Brown Dynamic Absorber is not an effective safety device.

The Brown Dynamic Absorber is not an anti-skid device which will help prevent skidding, spin-outs, unwanted motion, and accidents.

The Brown Dynamic Absorber will not help save lives.

The Brown Dynamic Absorber will not keep the rear wheels of an automobile tracking the front wheels, will not give the driver added control, and will not help a skidding automobile going straight.

The Brown Dynamic Absorber will not help control automobiles during panic stops or sudden turns.

The Brown Dynamic Absorber will not help control automobiles on wet or sandy road surfaces.

The performance representations for the Brown Dynamic Absorber have not been substantiated by competent scientific tests or by authenticated, controlled and duly recorded tests.

CONCLUSION

The aforesaid acts and practices of respondents, as herein found, were and are all to the prejudice and injury of the public and of respondents' competitors, and constituted and now constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

ORDER

It is ordered, That the respondents Brown Auto Stabilizer Co., a corporation, its successors and assigns, and its officers, and Charles R. Brown, individually, and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale, or distribution of "Dynamic Absorbers" or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that respondents' "Dynamic Absorber" or any similar device when installed or used in any manner in the operation of a motor vehicle:

- (a) Is an effective safety device, or
- (b) Is an anti-skid device, will help prevent skidding, spin-outs, unwanted motion, or accidents, or
- (c) Will help save lives, or
- (d) Will help keep the rear wheels tracking the front wheels, will give the driver added control, or will help keep a skidding motor vehicle going straight, or
- (e) Will help control motor vehicles during panic stops or sudden turns, or
- (f) Will have any value in helping to control motor vehicles on wet or sandy road surfaces, beyond its value as added weight.

2. Using the word "Stabilizer" or any other word, term, or phrase of similar import or meaning, as part of the corporate or trade name or in any other manner to describe or refer to respondents' device or any similar device.

3. Representing, directly or by implication, that the performance representations for respondents' "Dynamic Absorber" have been substantiated by competent scientific tests or by authenticated, controlled, and duly recorded tests; or falsely representing, in any manner, the extent, kind, character, or results of any scientific tests performed on any of respondents' products.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as the dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance obligations arising out of this order.

It is further ordered, That respondents deliver a copy of this order

to cease and desist to all present and future distributors, salesmen, or personnel of respondents engaged in the offering for sale, or sale, of respondents' "Dynamic Absorber" or any other products, or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify and advise each present and future distributor or sales representative to abide by the terms of this order and that the failure to comply with the order will result in cancellation of its distributorship or other selling agreement with respondents.

OPINION OF THE COMMISSION

By DENNISON, *Commissioner*:

This is an appeal by respondents from an initial decision in which the administrative law judge found that respondents had falsely advertised performance qualities of their product, the Brown "Dynamic Absorber."

The "Dynamic Absorber" is a self-contained device designed to fit in the trunk of a car. It is enclosed in a long box and weighs about 53 pounds. Within the box is a weight which can pivot back and forth in response to lateral (sideway) movements of the car. The claim of the respondents is that the device is so designed that it will provide inertial reserve and substantially dampen lateral movements and vibrations. The device has been advertised for sale at \$79.50. (Some of respondents' advertisements claim that to show the company's interest in public safety the \$79.50 is a reduced price from a previous price of \$149.50.)

In their advertisement, respondents claim great safety virtues for this product. For instance, they assert:

Stop Worrying about you Auto's Safety and Do Something About It Now. Install a Brown Dynamic Absorber for that Extra Margin of Safety.

Are you Really Interested in Protecting Your Loved Ones * * *

We know and our customers agree that any car equipped with a Brown Dynamic Absorber is a safer car to drive under all conditions than a car not similarly equipped.

* * * the Brown Dynamic Absorber to augment conventional controls on automobiles to give drivers better control of their cars under all driving conditions.

Blow outs can cause serious accidents under the best driving conditions. The Brown Dynamic Absorber could provide the extra margin of safety that could save your life.

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Opinion

You can have a Brown Dynamic Absorber installed in your car to augment the conventional controls and get automatic, mechanical help when you need it to prevent many needless auto accidents from happening.

Q. What does it do?

A. It helps drivers stop cars faster and straighter.

* * * * *

Q. Does a Brown Auto Stabilizer help on slippery surfaces?

A. Yes, * * *

The parties are in agreement that through these and other advertisements respondents have made the following representations:

1. That the Brown Dynamic Absorber is an effective safety device.
2. That the Brown Dynamic Absorber is an anti-skid device which will help prevent skidding, spin-outs, unwanted motion, and accidents.
3. That the Brown Dynamic Absorber will help save lives.
4. That the Brown Dynamic Absorber will keep the rear wheels of an automobile tracking the front wheels, will give the driver added control, and will help keep a skidding automobile going straight.
5. That the Brown Dynamic Absorber will help control automobiles during panic stops or sudden turns.
6. That the Brown Dynamic Absorber will help control automobiles on wet or sandy road surfaces.
7. That the performance representations for the Brown Dynamic Absorber have been substantiated by competent scientific tests or by authenticated, controlled, and duly recorded tests.

The only issue in dispute during the hearings was whether the device is in fact effective for the above intended purposes. Complaint counsel submitted detailed test data and supporting expert testimony comparing the results of use of the device in a car with use of an equivalent deadweight in the same car.¹ This evidence supports the view that the device does not perform as claimed in respondents' advertisements. Respondents submitted no test data but relied on evidence from drivers who have used the device and believe that it improves stabilization of their car. They also presented testimony by an engineering expert to the effect that the theory upon which the device is claimed to operate is a valid one and testimony by the inventor of the device to the effect that it performs as intended.

The administrative law judge found that whether or not the theory for the device relied upon by respondents is sound, the tests offered

¹ Although respondents dispute certain aspects of the tests and the weight to be given to the tests, they do not dispute the validity of comparing the behavior of a car with the device (properly installed) as compared to performance of the car with an equivalent deadweight substituted for it. Therefore there is no contention that the tests should have compared performance with device versus performance with the device removed and no deadweight substituted.

by complaint counsel show that the device does not in fact produce the results claimed for it. He also concluded that the evidence from users of the device was inconclusive and could not be relied upon. He issued an order prohibiting respondents from making the above-described representations and from using the word "stabilizer" or similar term in their trade name. In their appeal, respondents challenge his acceptance of the tests and claim error in the initial decision in other respects. Before taking up these points, a description of the tests submitted by complaint counsel would be appropriate.

Tests Performed by A. H. Easton & Associates

Complaint counsel introduced analyses of road tests using the Brown "Dynamic Absorber" through Dr. Andrew A. Frank, an associate in the firm of A. H. Easton & Associates, which is in the business of testing the behavior of automobile vehicles under various driving conditions.² Dr. Frank explained that he and his associate, Professor A. H. Easton,³ performed a series of tests on a Brown "Dynamic Absorber." He explained that using testing equipment which they had designed they ran a series of road tests designed to measure the efficacy of the device under common kinds of conditions that could be encountered by drivers.

The test car used was a 1968 Oldsmobile. Since respondents claim that the device is effective for any make of car, no contention has been raised that more than one type of car should have been used. The test equipment consisted of an accelerometer package in which there were three accelerometers to measure lateral and other motions of the car and a set of two gyros—a directional gyro and a pitch-roll gyro—to measure the angles of the body of the car as the car was maneuvered.

The accelerometers gave off electrical signals proportional to the accelerations in each of their axes, and the gyros provided electrical signals providing an indication of the angles that the car was expe-

² Dr. Frank has a bachelor's degree in mechanical engineering, automotive option, from the University of California at Berkeley; a master's degree in mechanical engineering in automotive control systems; a Ph. D. in systems electrical engineering from the University of Southern California in 1966; and has written a number of articles on vehicle behavior. He is presently a professor at the University of Wisconsin, Engineering College and he has worked for North American Aviation from 1955-1966 on vehicular problems involved in the aerospace industry, including dynamic simulation, design of control systems for dynamic control of vehicles.

³ A. H. Easton is also a professor of mechanical engineering at the University of Wisconsin. He teaches courses in vehicle dynamics, vehicle testing, and has had 18 years in the business of automobile testing. He has authored a number of articles on methods and results of automobile testing. In addition, he is a member of the National Safety Council and past chairman of a section of the Council on winter hazards.

riencing. The information was recorded on a special tape recorder which was then taken to a computer laboratory and put onto strip charts from which the data could be compared and interpreted. These strip charts are in the record (CX 21a=f). Tables prepared by Dr. Frank summarizing the more salient data, such as maximum lateral acceleration of the car during the tests, are attached to this opinion as Appendices. The following road tests were conducted by Dr. Frank and Professor Easton.

1. Four-Wheel Locked Braking Tests.

The first series of tests were designed to measure the effect of the "Dynamic Absorber" in a panic stop situation. After affixing the device in the trunk of a test car, Professor Easton took the car up to a given speed (40 mph) and applied the brakes suddenly. The electronic calibration equipment in the car measured various responses of the car, including the amount of acceleration of lateral movement. Also the final degree of "yaw" (lateral movement) of the stopped car from the original line of direction was recorded. The same maneuver was made with the Brown device removed and a deadweight substituted. Each type of test was repeated more than once. On their face the results might seem to indicate that there was somewhat *greater* yawing and lateral acceleration using the Brown device. Thus, the lateral acceleration using the Brown device reached a peak of .36 G's and a degree of yaw of 17, whereas the deadweight tests did not exceed .22 G's and 8 degrees, respectively. See Appendix I.⁴ However, Dr. Frank explained that the range of difference was not statistically significant and that the results should be interpreted to mean that the Brown device had about the same effect as the deadweight substitute.

2. Three-Wheel Locked Braking Tests.

A second series of tests involved blocking (disconnecting) the right front brake of the automobile and applying the brakes suddenly, causing the car to go into a violent spin-out or skidding condition and changing its direction 140-145 degrees. The results are summarized in Appendix II. Again, Dr. Frank stated that based on his experience the data shows there was no significant difference in the behavior of the car, whether the Brown device was used or a deadweight was used.

⁴The test runs marked "#1" under Column B in the Appendices indicate use of the Brown device. Tests marked "#1 wt." indicate the deadweight tests. (Subsequent runs involving stabilizers not involved in this case have been deleted from the exhibits.)

3. Constant Oscillatory Steering Tests.

A third series of tests involved using a mechanical steering wheel oscillator to rotate the steering wheel back and forth, causing the car to go in an "S" direction at a constant speed, at approximately 45-to-50 mph. A summary of peak-to-peak lateral acceleration and roll angle is shown on Appendices III and IV. Appendix III shows the comparative results with tire pressure equal in all four tires. Appendix IV shows the results when the pressure in the rear tires was significantly reduced. The rear tires were softened, Dr. Frank explained, to cause the car to go into what automobile testers call an "oversteer condition," giving the car a greater tendency to spin or skid.

The data in Appendix III shows somewhat lower measurements for lateral acceleration in the test using the Brown device (Appendix III). Respondents contend that this indicates the stabilizing effect of the Brown device. However, it should be noted that in these runs the speed of the test vehicle was somewhat lower than the speed of the vehicle in the runs when the deadweight was installed. In subsequent runs shown in Appendix IV where speeds were more comparable, no significant difference appeared between the effects of the Brown device and the deadweight. Dr. Frank testified that the difference was within the normal tolerance of measurements and that in his opinion both sets of tests showed that the "Dynamic Absorber" would not help control automobiles on sudden turns or skids (Tr. 87-93).

4. Another series of tests involved placing instruments on the moving element within the Brown "Dynamic Absorber" and then measuring the motion of this element with respect to the automobile's movements. According to the underlying theory of mechanics attributed to the device by its inventor, for effective performance the device should at least be so constructed that it would vibrate approximately 180 degrees out of phase with the automobile's lateral oscillatory frequency. The test automobile was driven at different speeds and the steering wheel oscillated to cause lateral sway that would occur in avoidance situations. Also, the car was shaken while in a stationary position. Normal left-turn and right-turn tests were also made. Finally, what is called a "nibbling" test was run, which involved driving along a raised ledge in the road causing the car to constantly swerve back and forth.

The results of these tests show that the phase lag between the automobile and the Brown "Dynamic Absorber" was about 10 degrees when the vehicle was shaken while standing still, rather than the 180 degrees if the device was to operate according to theory. Dr. Frank

stated that this amount of phase lag indicates that the device is practically insignificant in its effect on the vehicle (Tr. 126). In the moving tests the phase lag was even less, going down to zero in a number of maneuvers. See Appendix V.

As a result of these tests and his knowledge and experience in the testing and behavior of automobiles under such conditions, Dr. Frank stated that it was his opinion that the device was not an effective safety aid, would not help prevent skids, accidents, or unwanted motion, nor would it increase controllability of a car.

Respondents' Contentions on Appeal

Respondents challenge the above tests on the ground that the testers did not mount the Brown "Dynamic Absorber" properly in the test car. In this connection, Dr. Frank had explained that he and Dr. Easton bolted the device on a piece of three-eighths inch plywood instead of bolting it directly to the body of the car. Respondents' counsel during oral argument suggested there was no evidence that the plywood board was then fixed to the bottom of the car trunk. However, examination of the testimony shows that Dr. Frank on several occasions stated that the plywood mounting was in turn bolted securely to the trunk floor (Tr. 57, 58, 75). The plywood mounting was used to facilitate installation and removal during the series of tests. Dr. Frank stated that mounting of the device on the board could not have had any material effect on its performance (Tr. 195). Respondents presented no evidence that such installation was contrary to or inconsistent with the manufacturer's instructions. Nor have they suggested how use of the plywood mounting might have interfered with the tests. Accordingly, no basis for attacking the test results on this ground is found.

Respondents presented as expert witnesses, Dr. J. Walter Harrington, a professor of mechanical engineering at Villanova University, and Dr. Gary Tolley, inventor of the Brown "Dynamic Absorber." These witnesses testified that a dynamic absorber is not a new concept; that it is recognized that if there is "a mass spring system oscillating at a natural frequency, * * * the amplitude of a vibration can be decreased by tuning a second mass spring system to the vibrating mass, with the idea that the sub-system will oscillate out of phase with the prime system, and in so doing will reduce the vibration effort." (Tr. 158; see also Tr. 279.) However, it is clear that whether a particular absorber will work on a given piece of machinery de-

depends on a number of variables. Dr. Harrington stated that whether the Brown device works "basically centers upon the amount of the mass and the way it is pivoted. And the stiffness of the rubber element which serves as a basic storing device [for the energy absorbed]" (Tr. 159).

Although Mr. Tolley claimed to have tested the Brown device with instruments and that it performed successfully, no records of these tests were kept or produced, nor were the resulting measurements ever specifically described on the witness stand. Lacking any probative proof as to the degree to which the Brown device was observed "to work," we fail to see how this testimony refutes complaint counsel's test data or demonstrates that respondents had adequate test data to substantiate their advertising claims.⁵

Respondents also rely on evidence which they submitted that certain users of the Brown device have vouched for its effectiveness. In this connection, respondents showed that they had provided the Florida State Highway Patrol with over 100 Brown "Dynamic Absorbers" to use in patrol cars. They submitted survey questionnaires that of the 102 units which were used, 76 patrolmen reported the device to be a "definite aid" in the control of the vehicle and 26 found it to be of "some value" but "not conclusive." None appeared to give a completely negative report on the questionnaire, although some did orally when called as witnesses by complaint counsel. Three representatives from the Highway Patrol and two Florida County sheriffs appeared as witnesses at respondents' request and testified to having favorable experiences with the device.

Complaint counsel, on the other hand, called eight Florida Highway Patrolmen and former patrolmen as witnesses. The thrust of their testimony was that the device did not substantially aid in the control of their patrol cars. At least three believed that the device made driving control more difficult in some situations.

We believe the administrative law judge was correct in giving inconclusive weight to user endorsements. Not only were these opinions in conflict but this type of evidence inherently lacks probative value

⁵ Dr. Harrington suggested that the data shown on one set of the Frank-Easton "constant oscillatory steering" tests (Appendix III) indicate some measurable effectiveness. However, as previously noted, *supra* p. 7, Dr. Frank stated that the variance was within normal tolerances. Also, as noted, subsequent runs of similar tests of the test vehicle showed no such differences. Considering *all* tests that were performed by Dr. Frank and his associate, we think the evidence clearly demonstrates that the device does not significantly aid in the control of vehicles as advertised.

where a product's efficacy is not readily apparent and can be measured by more objective means. Here, rigorous scientific tests, performed under conditions that would minimize subjective influences, were placed in the record. We think the scientific tests override any reliance on user testimonials. Cf. *Vacu-Matic Carburetor Co. v. Federal Trade Commission*, 157 F. 2d 711 (7th Cir. 1946).

Our view of this matter does not conflict with *Evis Mfg. Co. v. Federal Trade Commission*, 287 F. 2d 831 (9th Cir. 1961). In that case the court held that the Government's experts' tests had been successfully impeached. Evis had presented detailed evidence showing that the manufacturers' explicit instructions had not been followed and suggested why it was necessary to follow them. The experts were not familiar with the theory of Evis' invention and the court found error in not following the instructions. In the present case, respondents introduced no installation instructions into the record and no evidence suggesting that mounting the device first on a piece of three-eighths inch plywood would or might affect operation of the Brown device. Dr. Frank showed that he was fully familiar with the scientific principles which the Brown device is supposed to incorporate and no attempt was made to discredit his testimony that the plywood mounting could not have affected the results.

Respondents also rely on *Gelb. v. Federal Trade Commission*, 144 F.2d 580 (2d Cir. 1944). But that case is also distinguishable. There a chemist's opinion as to the results of using a hair conditioner was held not to constitute reliable evidence where it was predicated upon an erroneous statement as to chemical analysis. Other uncontradicted expert testimony based on a correct analysis of the product corroborated user testimony that the product worked in the manner advertised. No similar circumstance exists here.

A number of other challenges, mostly procedural in nature, are raised in respondents' briefs. We find no error in the administrative law judge's rulings on these points. Since they do not involve material issues, extended discussion of these issues is not necessary.

We find no error in the administrative law judge's findings that respondents' advertisements were false and deceptive in the manner set forth in the complaint. We find no error in any other respect. Accordingly, the initial decision is affirmed and adopted. An appropriate order accompanies this opinion.

Commissioner MacIntyre concurred in the result.

Opinion

81 F.T.C.

TABLE I
INERTIA 11-15-70 4:25 p.m.
Clear,
Temperature 52°

Tire pressures: RF 25 PSI, RR 26 PSI, LR 25 PSI, LF 25 PSI

BRAKING TESTS

A RUN NO.	B UNIT NO.	C COUNTS	D SPEED MPH	E DIST. FEET	F CORRECTED DISTANCE	G DECEL. G'S	H PITCH DEG.	I ROLL DEG.	J YAW DEG.	K LAT. ACC. G'S (PEAK)	L VERT. ACC. G'S (PEAK-PEAK)	M TIM SEC
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1	#1	177	40.0	75.9	75.9	.72	2.7	2.0	11	.32	.55	2.6
2	#1	171	39.5	73.2	75.0	.72	3.6	1.6	17	.36	.58	2.6
3	#1	172	40.0	73.8	73.8	.72	3.42	1.4	11	.25	.60	2.6
4	#1wt	176	40.0	75.4	75.4	.73	2.9	1.2	8	.20	.61	2.6
5	#1wt	174	40.0	74.6	74.6	.73	3.1	1.2	.8	.22	.59	2.6

#1wt - head weight equivalent of unit #1

#2wt - head weight equivalent of unit #2

#3wt - head weight equivalent of unit #3

APPENDIX I

FEDERAL TRADE COMMISSION	
Docket No. 1163	Commission Exhibit No. 629
In the Matter of: <i>Deane Auto Stabilizer</i>	
Date: 11-15-70	Witness: <i>11-15-70</i>

BROWN AUTO STABILIZER CO., ET AL.

763

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Opinion

TABLE IV

INERTIA ANTI-SKID STABILIZER TESTS 10-15-70. 4:20 p.m.

Clear, Dry Temperature 50°

Tire Pressures: RF 25, RR 25, LF 25, LR 25

THREE-WHEEL-BRAKE TESTS

A RUN NO.	B UNIT NO.	C SPEED MPH	D FINAL ANGLE TAN.	E LAT. ACC. (PEAK) G'S	F LAT. ACC. RATE G'S/SEC.	G ROLL ANGLE DEG.	H YAW ANGLE DEG.	I MEAS. DEG.
16	#1 wt	30		1.10	.71	8.6		
17	#1 wt	30		1.04	.71	8.9		
18	1	30	.719	1.08	.71	8.9		144
19	1	30		1.04	.71	9.6		

* Tire pressure reduced to 10 PSI by tests

#1 wt - Dead weight equivalent of unit #1

#2 wt - Dead weight equivalent of unit #2

#3 wt - Dead weight equivalent of unit #3

FEDERAL TRADE COMMISSION	
Docket No. 1863	COMMISSIONER Robert No. 6-21-g
In the Matter of: Brown Auto Stabilizer	
Date: 1-14-72	Witness: Reporter: Lord

APPENDIX II

TABLE II

INERTIA ANTI-SKID STABILIZER TESTS 10-15-70 1:38 p.m.

Clear, Dry Temperature 52°

Tire Pressures: RF 25, RR 26, LF 25, LR 25

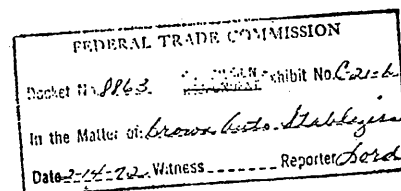
CONSTANT OSCILLATORY STEERING TESTS

A RUN NO.	B UNIT NO.	C SPEED MPH	D LAT. ACC. G'S (PEAK-PEAK)	E ROLL ANG. DEGREES (PEAK-PEAK)
7	#1 wt	45-50	.72	.33
8	#1 wt	48	.72	.34
18	1	44	.58	.29
19	1	45	.62	.33
20	1	45	.64	.32

#1 wt - Dead weight equivalent of unit #1

#2 wt - Dead weight equivalent of unit #2

#3 wt - Dead weight equivalent of unit #3



APPENDIX III

TABLE III

INERTIA ANTI-SKID STABILIZER TESTS 10-15-70 3:15 p.m.

Clear, Dry Temperature 52°

Tire Pressures: RF 25, RR 15, LF 25, LR 15

CONSTANT OSCILLATORY STEERING TESTS

A RUN NO.	B UNIT NO.	C SPEED MPH	D LAT. ACC. G'S (PEAK-PEAK)	E ROLL ANG. DEGREES (PEAK-PEAK)
1	1	45	.55	--
2	1	50	.70	--
3	#1 wt	45	.72	.30
4	#1 wt	45	.64	.28
5	1	40-45	.70	.26
6	1	45-50	.71	.25
7	1	43-45	.60	.28

#1 wt - Dead weight equivalent of unit #1

#2 wt - Dead weight equivalent of unit #2

#3 wt - Dead weight equivalent of unit #3

FEDERAL TRADE COMMISSION	
Docket No. <i>88-3</i>	Case No. <i>88-3</i>
In the Matter of <i>Brown Auto Stabilizer Co.</i>	
Date <i>2-14-72</i>	Witness <i>_____</i> Reporter <i>_____</i>

APPENDIX IV

Opinion

81 F.T.C.

FEDERAL TRADE COMMISSION
Docket No. 86-13
In the Matter of: <i>Bear & Ruth Stalder</i>
Date: <i>3-14-73</i> Witness: <i>Reported</i>

TABLE V

10-20-70

INERTIA ANTI-SKID STABILIZER TESTS
Clear, Dry Temperature 48°

INSTRUMENTED STABILIZER TESTS:
The accelerometers were located in the vicinity of the stabilizers.

A RUN NO.	B UNIT NO.	C TEST NAME	D LATERAL ACCEL. G'S	E PHASE LAG DEGREES	F FREQ. HERTZ	G COMMENTS
1	1	Calib.				Weight moved to car's right side
2	1	Calib.				Weight moved to car's left side
3	1	Shake	+10	+10	1.91	The rear of the car is shaken by hand
4	1	Shake	+10	+10	1.91	The rear of the car is shaken by hand
5	1	Rt. Turn	+13	0	.15	
6	1	Left Turn	+44	0	.15	
7	1	Steering	-31	-5	.45	Speed 30 mph, steering wheel oscillated until noticeable tire squeal
8	1	Steering	1.55	+5	.45	Speed 30 mph, steering wheel oscillated until noticeable tire squeal
9	1	Steering	1.56	+5	.45	Speed 30 mph, steering wheel oscillated until noticeable tire squeal
10	1	Steering	1.50	0	.62	Speed 60 mph, steering wheel oscillated until noticeable tire squeal
11	1	Nibbling	1.18	0	.4	Speed 65 mph, nibbling on a one inch strip (note additional oscillation due to lack of damping in device)

APPENDIX V

745

Complaint

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

This matter having been heard by the Commission upon briefs and oral argument in support of and in opposition to the appeal of respondents from the initial decision finding a violation of Section 5 of the Federal Trade Commission Act; and the Commission for the reasons stated in the accompanying opinion, having concluded that the appeal should be denied:

It is ordered, That the initial decision, as supplemented by the Commission's opinion in this matter, and the order to cease and desist contained in said initial decision, be, and they hereby are, adopted as the decision and order of the Commission, and

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist. Commissioner MacIntyre concurring in the result.

IN THE MATTER OF

DAVIS FELT AND CARPET COMPANY

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS

Docket C-2313, Complaint, Nov. 6, 1972—Decision, Nov. 6, 1972

Consent order requiring a Philadelphia, Pennsylvania, manufacturer and retailer of carpets and rugs, among other things to cease selling and manufacturing carpeting which does not meet the acceptable criteria for carpeting under the Flammable Fabrics Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Davis Felt and Carpet Company, a corporation, hereinafter referred to as respondent, has violated the provisions of the said Acts and the rules and regulations promulgated under the Flammable Fabrics Act, as amended, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Davis Felt and Carpet Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania.

Respondent is engaged in the manufacture and sale of carpets and rugs, with its principal place of business located at Casmir and Miller Streets, Philadelphia, Pennsylvania.

PAR. 2. Respondent is now and for some time last past has been engaged in the manufacturing for sale, sale and offering for sale, in commerce, and has introduced, delivered for introduction, transported and caused to be transported in commerce, and has sold or delivered after sale or shipment in commerce, products, as the terms "commerce" and "product," are defined in the Flammable Fabrics Act, as amended, which products fail to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were carpets and rugs in style "Needleton, Color 201," subject to Department of Commerce Standard For the Surface Flammability of Carpets and Rugs (DOC FF 1-70).

PAR. 3. The aforesaid acts and practices of respondent were and are in violation of the Flammable Fabrics Act, as amended, and the rules and regulations promulgated thereunder, and as such constituted, and now constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Division of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act, and the Flammable Fabrics Act, as amended; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such com-

plaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Davis Felt and Carpet Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania.

Respondent is engaged in the manufacture and sale of carpets and rugs, with its office and principal place of business located at Casmir and Miller Streets, Philadelphia, Pennsylvania.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Davis Felt and Carpet Company, a corporation, its successors and assigns, and its officers and respondent's agents, representatives and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to any applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondent notify all of its customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondent herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the provisions of this order with respect to customer notification, recall and processing or destruction shall be applicable to carpets and rugs in style "Needletone, Color 201" as designated in subparagraph one of Paragraph Two of the complaint giving rise to this order, and any other colors determined to be in violation of the Flammable Fabrics Act, as amended, prior to the date of acceptance by the Commission of the final compliance report.

It is further ordered, That respondent herein shall, within ten (10) days after service upon it of this order, file with the Commission a special report in writing setting forth the respondent's intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and the results thereof, (5) any disposition of said products since March 29, 1972, and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondent will submit with its report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondent will forward to the Commission for testing a sample of any such carpet or rug.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Complaint

IN THE MATTER OF

TUFTEX, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS

Docket C-2314. Complaint, Nov. 7, 1972—Decision, Nov. 7, 1972

Consent order requiring a Dalton, Georgia, manufacturer and retailer of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued or amended under the provisions of the Flammable Fabrics Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Tuflex, Inc., a corporation, and Gordon C. Leonard, individually and as an officer of the said corporation, hereinafter referred to as respondents, have violated the provisions of the said Acts and the rules and regulations promulgated under the Flammable Fabrics Act, as amended, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Tuflex, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia. Respondent Gordon C. Leonard is an officer of the said corporate respondent. He formulates, directs, and controls the acts, practices, and policies of the said corporation.

Respondents are engaged in the manufacture and sale of carpets and rugs, with their principal place of business located at 107 Brooker Drive, Dalton, Georgia.

PAR. 2. Respondents are now and for some time last past have been engaged in the manufacturing for sale, sale and offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, products, as the terms "commerce" and "product," are defined in the Flammable Fabrics Act, as amended, which products fail to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.